

## § 242.1

APPENDIX B TO PART 242—PROCEDURES FOR SUBMISSION AND APPROVAL OF CONDUCTOR CERTIFICATION PROGRAMS

APPENDIX C TO PART 242—PROCEDURES FOR OBTAINING AND EVALUATING MOTOR VEHICLE DRIVING RECORD DATA

APPENDIX D TO PART 242—MEDICAL STANDARDS GUIDELINES

APPENDIX E TO PART 242—APPLICATION OF IRREVOCABLE EVENTS

AUTHORITY: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

SOURCE: 76 FR 69841, Nov. 9, 2011, unless otherwise noted.

### Subpart A—General

#### § 242.1 Purpose and scope.

(a) The purpose of this part is to ensure that only those persons who meet minimum Federal safety standards serve as conductors, to reduce the rate and number of accidents and incidents and to improve railroad safety.

(b) This part prescribes minimum Federal safety standards for the eligibility, training, testing, certification and monitoring of all conductors to whom it applies. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements consistent with this part.

(c) The conductor certification requirements prescribed in this part apply to any person who meets the definition of conductor contained in § 242.7, regardless of the fact that the person may have a job classification title other than that of conductor.

#### § 242.3 Application and responsibility for compliance.

(a) This part applies to all railroads, except:

(1) Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (*i.e.*, plant railroads, as defined in § 242.7);

(2) Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation as defined in § 242.7; or

(3) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(b) Although the duties imposed by this part are generally stated in terms

## 49 CFR Ch. II (10–1–15 Edition)

of the duty of a railroad, each person, including a contractor for a railroad, who performs any function covered by this part, must perform that function in accordance with this part.

#### § 242.5 Effect and construction.

(a) FRA does not intend, by use of the term conductor in this part, to alter the terms, conditions, or interpretation of existing collective bargaining agreements that employ other job classification titles when identifying a person who is the crew member in charge of a movement that requires a locomotive engineer.

(b) FRA does not intend by issuance of these regulations to alter the authority of a railroad to initiate disciplinary sanctions against its employees, including managers and supervisors, in the normal and customary manner, including those contained in its collective bargaining agreements.

(c) Except as provided in § 242.213, nothing in this part shall be construed to create or prohibit an eligibility or entitlement to employment in other service for the railroad as a result of denial, suspension, or revocation of certification under this part.

(d) Nothing in this part shall be deemed to abridge any additional procedural rights or remedies not inconsistent with this part that are available to the employee under a collective bargaining agreement, the Railway Labor Act, or (with respect to employment at will) at common law with respect to removal from service or other adverse action taken as a consequence of this part.

#### § 242.7 Definitions.

As used in this part—

*Administrator* means the Administrator of the FRA or the Administrator's delegate.

*Alcohol* means ethyl alcohol (ethanol) and includes use or possession of any beverage, mixture, or preparation containing ethyl alcohol.

*Conductor* means the crewmember in charge of a “train or yard crew” as defined in part 218 of this chapter. *See also* the definition of “passenger conductor” in this section.

*Controlled substance* has the meaning assigned by 21 U.S.C. 802 and includes